

**PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY**

Name Davis Trent  
(Last) (First) (Initial)

Prisoner Number P11141

Institutional Address MCSP P.O. Box 409060 Ione, CA 95640

C-13-247

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

Trent Davis  
(Enter the full name of plaintiff in this action.)

vs.

Mike Martel, Warden

Respondent

(Enter the full name of respondent(s) or jailor in this action)

**CV 08 3056**

(To be provided by the clerk of court)

**PETITION FOR A WRIT  
OF HABEAS CORPUS**

**WHA**

**(PR)**

Read Comments Carefully Before Filling In

When and Where to File

You should file in the Northern District if you were convicted and sentenced in one of these counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in this district if you are challenging the manner in which your sentence is being executed, such as loss of good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

If you are challenging your conviction or sentence and you were not convicted and sentenced in one of the above-named fifteen counties, your petition will likely be transferred to the United States District Court for the district in which the state court that convicted and sentenced you is located. If you are challenging the execution of your sentence and you are not in prison in one of these counties, your petition will likely be transferred to the district court for the district that includes the institution where you are confined. Habeas L.R. 2254-3(b).

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2004 Supp. App. 14-B, p.25

Who to Name as Respondent

You must name the person in whose actual custody you are. This usually means the Warden or jailor. Do not name the State of California, a city, a county or the superior court of the county in which you are imprisoned or by whom you were convicted and sentenced. These are not proper respondents.

If you are not presently in custody pursuant to the state judgment against which you seek relief but may be subject to such custody in the future (e.g., detainees), you must name the person in whose custody you are now and the Attorney General of the state in which the judgment you seek to attack was entered.

A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE

## 1. What sentence are you challenging in this petition?

- (a) Name and location of court that imposed sentence (for example; Alameda County Superior Court, Oakland):

County Superior Court San Mateo County

Court

Location

- (b) Case number, if known Superior ct no: SC042645

- (c) Date and terms of sentence September 16, 2005 27 years

- (d) Are you now in custody serving this term? (Custody means being in jail, on parole or probation, etc.) Yes X No

Where?

Name of Institution: Mule Creek State Prison

Address: P.O. Box 409060 Ione CA 95640

2. For what crime were you given this sentence? (If your petition challenges a sentence for more than one crime, list each crime separately using Penal Code numbers if known. If you are challenging more than one sentence, you should file a different petition for each sentence.)

Pen code §§664/187 subd(a) §220,288(a) subd(c) §§664/288(a)

Pen code §245 subd(a), §236, §12022 subd(b)(1) Prior Convictions

Pen code §§1170.12 subd(c)(1), 667 subd(a) §667.5 subd(b)

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1 \_\_\_\_\_ petition? Yes X No \_\_\_\_\_

2 \_\_\_\_\_ (c) Was there an opinion? Yes X No \_\_\_\_\_

3 (d) Did you seek permission to file a late appeal under Rule 31(a)?

4 Yes \_\_\_\_\_ No \_\_\_\_\_

5 If you did, give the name of the court and the result:

6 \_\_\_\_\_ N/A

7 \_\_\_\_\_

8 9. Other than appeals, have you previously filed any petitions, applications or motions with respect to  
9 this conviction in any court, state or federal? Yes X No \_\_\_\_\_

10 [Note: If you previously filed a petition for a writ of habeas corpus in federal court that  
11 challenged the same conviction you are challenging now and if that petition was denied or dismissed  
12 with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit  
13 for an order authorizing the district court to consider this petition. You may not file a second or  
14 subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28  
15 U.S.C. §§ 2244(b).]

16 (a) If you sought relief in any proceeding other than an appeal, answer the following  
17 questions for each proceeding. Attach extra paper if you need more space.

18 I. Name of Court: \_\_\_\_\_ N/A

19 Type of Proceeding: \_\_\_\_\_ N/A

20 Grounds raised (Be brief but specific):

21 a. \_\_\_\_\_ N/A

22 b. \_\_\_\_\_

23 c. \_\_\_\_\_

24 d. \_\_\_\_\_

25 Result: \_\_\_\_\_ N/A Date of Result: \_\_\_\_\_ N/A

26 II. Name of Court: \_\_\_\_\_ N/A

27 Type of Proceeding: \_\_\_\_\_

28 Grounds raised (Be brief but specific):

1 a. \_\_\_\_\_  
 2 b. \_\_\_\_\_  
 3 c. \_\_\_\_\_ N/A  
 4 d. \_\_\_\_\_  
 5 Result: \_\_\_\_\_ Date of Result: \_\_\_\_\_

6 III. Name of Court: \_\_\_\_\_  
 7 Type of Proceeding: \_\_\_\_\_  
 8 Grounds raised (Be brief but specific):  
 9 a. \_\_\_\_\_  
 10 b. \_\_\_\_\_ N/A  
 11 c. \_\_\_\_\_  
 12 d. \_\_\_\_\_  
 13 Result: \_\_\_\_\_ Date of Result: \_\_\_\_\_

14 IV. Name of Court: \_\_\_\_\_  
 15 Type of Proceeding: \_\_\_\_\_  
 16 Grounds raised (Be brief but specific):  
 17 a. \_\_\_\_\_  
 18 b. \_\_\_\_\_ N/A  
 19 c. \_\_\_\_\_  
 20 d. \_\_\_\_\_  
 21 Result: \_\_\_\_\_ Date of Result: \_\_\_\_\_

22 (b) Is any petition, appeal or other post-conviction proceeding now pending in any court?  
 23 Yes \_\_\_\_\_ No X

24 Name and location of court: \_\_\_\_\_

25 B. GROUNDS FOR RELIEF

26 State briefly every reason that you believe you are being confined unlawfully. Give facts to  
 27 support each claim. For example, what legal right or privilege were you denied? What happened?  
 28 Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if you

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1 need more space. Answer the same questions for each claim.  
 2 [Note: You must present ALL your claims in your first federal habeas petition. Subsequent  
 3 petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant,  
 4 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

5 Claim One: \_\_\_\_\_  
 6 See Attached

7 Supporting Facts: \_\_\_\_\_  
 8 \_\_\_\_\_  
 9 \_\_\_\_\_  
 10 \_\_\_\_\_

11 Claim Two: See Attached  
 12 \_\_\_\_\_

13 Supporting Facts: \_\_\_\_\_  
 14 \_\_\_\_\_  
 15 \_\_\_\_\_  
 16 \_\_\_\_\_

17 Claim Three: See Attached  
 18 \_\_\_\_\_

19 Supporting Facts: \_\_\_\_\_  
 20 \_\_\_\_\_  
 21 \_\_\_\_\_  
 22 \_\_\_\_\_

23 If any of these grounds was not previously presented to any other court, state briefly which  
 24 grounds were not presented and why:

25 N/A  
 26 \_\_\_\_\_  
 27 \_\_\_\_\_  
 28 \_\_\_\_\_



1 List, by name and citation only, any cases that you think are close factually to yours so that they  
2 are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning  
3 of these cases:

4 See Attached

5  
6  
7 Do you have an attorney for this petition? Yes \_\_\_\_\_ No X

8 If you do, give the name and address of your attorney:  
9 \_\_\_\_\_

10 WHEREFORE, petitioner prays that the Court grant petitioner relief to which s/he may be entitled in  
11 this proceeding. I verify under penalty of perjury that the foregoing is true and correct.

12  
13 Executed on

14 Date

15 Signature of Petitioner

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20 (Rev. 6/02)

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PET. FOR WRIT OF HAB. CORPUS

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1 Trent Davis Pl1141  
2 Mule Creek State Prison  
3 P.O. Box 409060  
4 Ione, CA 95640 C-13-247

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Petitioner Pro-Se

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

Trent Davis,	)	CASE NO: A111960
	)	San Mateo County No: SC042645
Petitioner,	)	
	)	PETITION FOR WRIT OF HABEAS CORPUS
vs	)	UNDER 28 U.S.C. § 2254
	)	
	)	
M. Martel, Warden,	)	
Respondent,	)	

TO THE DISTRICT COURT JUDGES IN AND FOR THE NORTHERN DISTRICT  
OF CALIFORNIA

I Trent Davis, Hereafter petitioner, request this court in  
the above styled cause, to grant this writ of habeas corpus to  
secure uniformity of decision and to settle important questions  
of law. Questioning the constitutionality of propensity evidence  
in sex offense cases. [Is] it a violation of petitioner's  
Fourteenth Amendment right to due process where alleged  
"propensity" evidence of a wholly dissimilar prior sexual offense  
is used against petitioner in a current sexual offense  
prosecution lacking relevance?

[Is] petitioner denied his Sixth Amendment right to a defense  
and his Fourteenth Amendment right to due process, if the jury is

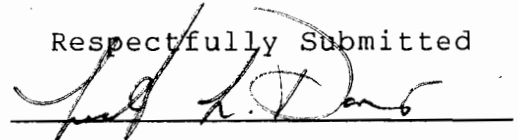


1 not permitted to hear relevant evidence about numerous and  
2 baseless prior criminal complaints (against other persons), made  
3 out by the witness complaining against him, when the facts  
4 underlying those prior baseless complaints go directly to  
5 impeaching the credibility of that complaint? (Propensity  
6 Evidence)?

7 [Is] it a violation of petitioner's Sixth Amendment right to  
8 a jury trial for a court at the time of sentencing to aggravate a  
9 presumptively-appropriate middle term of imprisonment to an upper  
10 term, based on its own findings that petitioner , served a prior  
11 prison term, was on parole at the time of the offenses, and had  
12 adult convictions of "increasing seriousness." "violent conduct,"  
13 and that petitioner is a danger to society. (The jury made no  
14 such factual findings).

15  
16 6/16/08  
Date

17  
18 Respectfully Submitted

19 

20 Trent Davis  
21 Petitioner Pro-Se  
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1 Northern District Case No: \_\_\_\_\_  
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8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

10 **Trent Davis,** ) CASE NO: A111960  
11                   Petitioner, ) SC042645  
12                   ) )  
13 **vs** ) )  
14                   ) )  
15 **M. Martel, Warden,** )  
16                   Respondent, )  
17                   ) )  
18 \_\_\_\_\_ )

19 **Memorandum of Points and Authorities**  
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Issues Presented

I

PETITIONER WAS DENIED HIS FEDERAL  
CONSTITUTIONAL RIGHTS TO DUE PROCESS  
AND FAIR TRIAL UNDER THE FOURTEENTH  
AMENDMENT WHEN THE TRIAL COURT ADMITTED  
"PRIOR BAD ACT EVIDENCE"

II

PETITIONER WAS DEPRIVED HIS SIXTH  
AND FOURTEENTH AMENDMENT RIGHTS TO  
PRESENT A DEFENSE AND DUE PROCESS  
WHEN THE TRIAL COURT PRECLUDED THE  
DEFENSE FROM IMPEACHING DOUKAS

III

PETITIONER WAS DENIED HIS SIXTH  
AMENDMENT RIGHT TO JURY TRIAL  
AT TIME OF SENTENCING

Table of Authorities

**Federal Cases**

<u>Ake v Oklahoma</u> (1985) 470 US 68, 74 [105 S.ct. 1087] .....	pg 16
<u>Arizona v Fulminante</u> 499 US 279, 307 .....	pg 20
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<u>Blakely v Washington</u> (2004) 542 US 296 .....	pg 22
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<u>Boyd v California</u> 494 US 370, 380 .....	pg 15
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<u>Cooper v Aaron</u> (1958) 358 US 1, 18 .....	pg 16
<u>Cunningham v California</u> (2007) [127 S.ct. 856] .....	pg 22, 23
<u>Davis v Alaska</u> (1974) 415 US 308, .....	pg 20
316 [94 S.ct. 1105]	
<u>Delaware v Van Ardall</u> (1986) 475 US 673, .....	pg 20
679 [106 S.ct. 1431]	
<u>Estelle v Mc Guire</u> 502 US 62, 116 .....	pg 14, 18
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<u>Fay v Noia</u> supra at 440-441 9 Fed .....	pg 20
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<u>Kotteakos v United States</u> 328 US 750, 776, .....	pg 18, 19
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<u>Shepard v United States</u> (2005) 544 US 13, .....	pg 23
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United States ex rel Durso v Pate 426, ..... pg 16  
F2d 1083, 1086 (7th cir 1970)

United States ex rel Palmer v De Robertis 738 F2d ..... pg 16  
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Washington v Texas (1967) 388 US 14, 19 ..... pg 21  
[87 S.ct. 1920]

Williams v Taylor (2000) 529 US 420 ..... pg 18, 23  
146 Led 2d 435, 120 S.ct. 1479

#### State Cases

People v Britt (2002) 139 Cal App 4th ..... pg 16  
500, 505

People v Walker (2006) 139 Cal 4th 782 ..... pg 16  
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Del-Monte v Wilson (1992) 1 Cal 4th ..... pg 16

#### US Constitutional Amendments

Fourteenth, Sixth, Fifth Amendments

#### Penal Codes

§ 664/187, sund(a), § 662/288(a), § 245 subd(a), § 236

§ 12022, subd(b)(1), § 1170.12 subd(c)(1) 667, subd(a)

§667.5 subd(b), §1108 subd(a), §1101

Statement of the Case

Defendant was convicted following a jury trial of attempted murder (pen. code, § 664/187, subd.(a) assault with intent to commit forcible oral copulation (pen. code §662/288a), three counts of assault with a deadly weapon (pen. code §245, subd(a)) and false imprisonment (pen. code §236), with associated enhancements for personal use of a deadly weapon (pen. code §12022, subd.(b)(1)).<sup>1</sup> The trial court subsequently found that defendant suffered prior convictions (pen. code §1170.12, subd. (c)(1), 667, subd.(a), and served a prior prison term (pen. code § 667.5 subd.(b). He was sentenced to an aggravated term of 27 years in state prison.

<sup>1</sup> Petitioner was previously convicted of the same offenses, the judgement was affirmed by this court, but reversed by the ninth circuit court of appeal in a habeas corpus proceeding. The convictions currently on appeal before us followed a retrial of the charges.



## STATEMENT OF FACTS

## The Charged Offenses

The victim of the charged offenses, Tamara,<sup>1</sup> joined friends at Molloy's bar in Colma at about 9:00 p.m. on December 18, 1997, to play a "trivia game." The trivia game ended between 10:00 and 11:00 p.m., whereupon Tamara and her friends went to the Burlingame Station bar in Burlingame between 11:00 and 11:30 p.m. to play pool. Tamara left her car at Malloy's bar. After an hour or more at Burlingame Station, Tamara noticed a friend, John Patterson, the manager of the Fish Market restaurant where she formerly worked. Patterson introduced Tamara to his friend, defendant. Patterson convinced Tamara to meet him and defendant at another bar a few blocks away known as "the Tavern" when she finished her pool game.

Tamara walked to the Tavern to join Patterson and defendant. They talked there for 10 to 15 minutes before Tamara mentioned that she "should get back" to her friends at Burlingame Station. Patterson and defendant then walked with Tamara back to Burlingame Station, wher they discovered the bar was closed and her friends were gone. Patterson offered to drive Tamara "home," but suggested they first visit a nearby candy store he owned with his sister. At the store they ate candy, and at Patterson's suggestion Tamara took two "Beanie Babies." Defendant "grabbed a whole bunch" of Beanie Babies and put them in a bag.

After 30 minutes to an hour in the candy store, they took a cab to a liquor store to purchase alcohol. They returned to the candy store for a while, then Patterson drove them to his house

1 For the sake of confidentiality, we refer to the victim of the charged offenses and the victims of the prior uncharged acts by their first names

1 in Belmont. Tamara " really wanted to go home," but Patterson  
2 insisted that she "hang out" with them and "go to his house for a  
3 little bit." Tamara was reluctant, but "felt really guilty" after  
4 eating candy and taking Beanie Babies from Patterson, so she  
5 agreed. Patterson was aware that Tamara did not have cab fare. He  
6 offered to give her "money to take a cab home" from Belmont to  
7 her car in Colma.

8 They arrived at Patterson's home around 2:30a.m. Tamara "kept  
9 saying" that she was "really cold, tired, wanted to go home," but  
10 she did not want to immediatly insist that Patterson call a cab  
11 for her. Defendant offered Tamara his sweatshirt, which she  
12 accepted. She spoke with defendant, who mentioned that he "had a  
13 nine-year-old boy and a ten-year-old girl." He also "said he was  
14 a model for Playgirl" magazine. After one of patterson's roommates  
15 began angrily "screaming and yelling and swearing" that they "were  
16 making a lot of noise," Tamara "just really wanted to go home."  
17 She "was afraid of the roommate," and waited by the door until  
18 she could leave.

19 Finally, Tamara "firmly" told Patterson, "I really want to go  
20 home; I need a cab." Patterson called a cab, which arrived at his  
21 home 15 minutes later, about 4:00a.m. He also gave Tamara \$20 for  
22 cab fare, and asked her not to tell defendant that he "gave this  
23 to her." Tamara intended to take the cab directly to her car  
24 parked in Colma. As she "said goodbye and turned to the door,"  
25 however defendant asked if he could "share a cab" with her.  
26 Tamara agreed, as defendant lived in San Mateo, so "it was right  
27 along the way" to Colma. Tamara testified that both Patterson and  
28 defendant had been "very polite, very nice" during the evening,

1 although they both, and Patterson in particular, did not seem to  
2 want her to leave.

3 Tamara and defendant rode in the cab to defendant's house in  
4 San Mateo. They both thought the cab driver acted "really  
5 strange" during the cab ride; he did not respond to anything  
6 Tamara said. Although Tamara planned to have the cab driver leave  
7 defendant at his home and continue alone in the cab to Colma,  
8 defendant repeatedly mentioned that he had a "cab driver friend"  
9 who could drive her to her car. When they arrived at defendant's  
10 house, he forcefully reiterated that the cab driver was "very  
11 strange" and unsafe. He suggested that Tamara come inside, where  
12 he offered to call his friend to pick her up. Tamara "trusted"  
13 defendant, who "was very polite" all evening, and thought his  
14 suggestion was a "far better alternative" to continuing the ride  
15 with a cab driver who "didn't listen to anything" she said.

16 They arrived at defendant's house, which he occupied with his  
17 children and a roommate. Defendant awakened his two children who  
18 were sleeping on the sofa in the living room, and directed them  
19 to a bedroom. At tamara's request, defendant then appeared to  
20 place a telephone call to a cab company. Tamara noticed that  
21 defendant did not give his address during the conversation, but  
22 defendant explained, "he's my friend , he knows where I live."  
23 While Tamara waited for the cab , they sat on the couch.  
24 Defendant talked "about his modeling career" and displayed  
25 photographs of himself and his family. When defendant began to  
26 show her nude photographs of himself from Playgirl magazine she  
27 "thought he was a little perverted," but still "didn't think he  
28 was any danger" to her.

1 After at least 20 minutes passed, Tamara said "I'm going to  
2 call a cab." Defendant replied "no, I'll go ahead and call my  
3 friend again." After ostensibly making another call to the cab  
4 company defendant told Tamara "there was an accident, and the  
5 cab driver would arrive in "five or ten" minutes. Tamara "settled  
6 bck down" and fell asleep while seated on the couch.

7 When Tamara awoke, she found the defendant "completely  
8 naked," sitting on her , "and he was masturbating." Defendant  
9 declared, "suck my cock." When Tamara refused, defendant grabbed  
10 a black baton, held it over her head, and clenched his jaw.  
11 Tamara replied, "okay okay, okay, I'll do whatever you want."  
12 Defendant put the baton down and said, "put it in your mouth."  
13 Tamara pretended to be agreeable. She told defendant, "first, I  
14 have to use the bathroom and take care of some things, and then I  
15 can have sex with you." She hoped to "run away" if defendant  
16 allowed her to get up from the couch. When defendant lifted some  
17 of his weight from her, Tamara "slipped out from beneath his  
18 legs" to run for the door.

19 As Tamara attempted to escape, defendant grabbed her and  
20 ripped off her sweater and shirt. Tamara found herself on her  
21 hands and knees on the floor. Defendant jumped on her back and  
22 flattened her face down on the floor. He put a plastic bag on her  
23 face as he pushed her against the floor so she could not move.  
24 Tamara could not breathe through the plastic, although she kept  
25 "thashing and fighting." She began "losing consciousness," and  
26 thought she "was dying." She "couldn't move" her hands , and  
27 "tried laying still." Finally, Tamara "just thrashed really hard  
28 one more time," and managed to momentarily get the bag away from

1 her mouth to take a breath.

2 Defendant replaced the bag on Tamara's mouth, and with one  
3 hand tried to wrap a cord around her throat or face. Tamara was  
4 able to free one of her hands and pull the plastic bag away from  
5 her mouth so she could get another breath. She also screamed as  
6 loud as she could. Defendant continued to push the plastic bag  
7 against her mouth and "tighten the cord" around her neck.

8 Defendant's roommate Charles Renfroe ran into the room.  
9 Tamara testified that Renfroe hollard at defendant, "you have to  
10 stop doing this. you can't keep doing this. you ned to let her  
11 go." Defendant answered: "[S]he's just a hooker that I picked up.  
12 She wants me to do this to her. Go back to bed, Charles." Tamara  
13 screamed to Renfroe, "it's not true," and implored him not to  
14 leave her.

15 Renfroe again told defendant to "let her go." When defendant  
16 did not respond, Renfroe attempted to pull defendant away from  
17 Tamara. As they struggled on the floor Renfroe again pled with  
18 defendant, "Let this one go." Defendant yelled to Renfroe: "It's  
19 too late. Go back to bed. It's too late . She'll go to the cops.  
20 I have to finish." Defendant continued to hold Tamara by the head  
21 and pin her to the ground. During the struggle they rolled into  
22 the Christmas tree and the packages under it were strewn about.  
23 Defendant had Tamara's hair "balled up in his hand."

24 Defendant's daughter Amanda then entered the room and  
25 exclaimed, "I'm going to call 911"<sup>2</sup> Defendant told her "do not  
26 call 911. If you love your daddy, you will go back to bed. Do not  
27 call 911. Daddy is just playing." Tamara spoke to Amanda; her

28 <sup>2</sup> The testimony of defendant's daughter and son presented ot the  
first trial was read into the record in the second trial.



1 voice sounded "scary and shaky." Amanda also observed Renfroe  
2 attempting to pull defendant "off the girl" and telling defendant  
3 "just let her go."

4 After defendant told Amanda to go to her bedroom, she left  
5 the living room briefly. She and defendant's son Dustin returned  
6 to the living room about five minutes later and screamed at  
7 defendant to "stop." Tamara was still "trying to get away" from  
8 defendant. Amanda once more threatened to "call 911" unless  
9 defendant released Tamara. She left the room and called 911 to  
10 report that "a guy and girl were struggling in the living room."  
11 Renfroe also told defendant, "I am going to call 911," and "got  
12 up" from the floor.

13 Defendant began pushing Tamara so hard that she thought her  
14 "neck would be broken any second." Tamara begged Renfroe not to  
15 leave her. Renfroe "came back over and tried to pull [defendant]  
16 off some more." "there was silent fighting for a long time"  
17 before Renfroe again commanded defendant to "let her go."  
18 Defendant repeated: "She'll go to the cops. It's too late. I  
19 can't. I have to finish." Tamara promised not to "go to the  
20 cops."

21 Defendant suddenly "stopped struggling," "let go," and said  
22 "it's over." Tamara pulled away from defendant, ripping her hair  
23 out of his hand as she did so. She grabbed her purse and other  
24 belongings as Renfroe opened the front door and screamed to her,  
25 "just get out of here while you can." Tamara leapt through the  
26 door and ran away. She noticed the address of defendant's house  
27 and name of the street as she ran, and "kept saying it over and  
28 over" to remember it.



1        Within a few minutes, Tamara stopped a passing tow truck  
2 driver and used his cell phone to call 911. In the call she  
3 stated that a man named "Trent" had tried to "rape and kill" her.  
4 Tamara mentioned that the defendant have given her a "drug to put  
5 me out." She also expressed concern for the safety of Renfro.   
6 Tamara made a second 911 call shortly thereafter for fear that  
7 defendant might "turn on" Renfro and the children because they  
8 "witnessed something really bad" and "tried to help" her. She  
9 later called Patterson to tell him defendant had "tried to kill"  
10 her and direct him not to give defendant "any information" about  
11 her.

12        Once Tamara was gone, defendant told his son and daughter  
13 that she had held a "knife to his throat," beaten him with a  
14 pool cue, tried to handcuff him, and demanded money from him. He  
15 gave a "long black stick" to Amanda and told her to take it to  
16 his room. Amanda also took a "romance tape" out of the VCR which  
17 had been playing when she came into the room, and later gave it  
18 to police.

19        After Tamara fled from the house, Renfro began  
20 "hyperventilating" and had pain in his chest, so he went to his  
21 bedroom to rest. By the time the police arrived at defendant's  
22 house 10 minutes later - just before 6:15a.m. - Renfro had  
23 "calmed down." Renfro described the incident to the police,  
24 although he was concerned about defendant's welfare and did not  
25 then disclose that defendant had been prosecuted in New York for  
26 sexual assault a year and a half before.

27        Tamara was transported to San Mateo Police Department. The  
28 officer who interviewed her noticed that her clothing was

1 "disheveled," her hair was "messed up," and she was "clearly  
2 upset." Her gums were cut, her lips were swollen, and she had  
3 dried blood on the corners of her mouth.

4 From the police station, Tamara was transported to the  
5 hospital, where a sexual assault examination was performed. When  
6 she arrived Tamara was "tearful and emotional and upset." She had  
7 scratches on her face and her lips were "very crusted over with  
8 blood." She complained of neck and nasal pain, and "was basically  
9 sore all over." Blood was found on her underwear that was  
10 consistent with defendant's genetic markers, but not positively  
11 identified - except that Tamara was excluded as the donor. Blood  
12 stains were detected on both the inside and outside of her  
13 sweater: those on the inside were consistent with Tamara's type;  
14 those on the outside were consistent with defendant's type. No  
15 sperm was found on her body or clothes.

16 A search of defendant's residence was undertaken later that  
17 day. A black billy club was found on the floor of a closet and a  
18 pool cue was discovered in a bedroom. Three plastic bags smeared  
19 with saliva were seized. A clump of hair was recovered from the  
20 living room floor near a coffee table. Nude and partially clothed  
21 photographs of defendant, along with an adult video and  
22 magazines, were also collected from the house.

23 Defendant was taken into custody and interviewed at the  
24 police station. Cut or bite marks were observed on the middle  
25 fingers of both hands. he also had a bite mark on his left  
26 forearm and scratches on his right shoulder and chest. Blood was  
27 visible on his middle right finger. Defendant stated he called  
28 Luxor Cab Company for Tamara three times from his house, but the

1 dispatch records for the company did not indicate any calls for  
2 service from the defendant's neighborhood after midnight.

3 **The Victim's Prior Report of an Assault**

4 During her cross-examination Tamara also testified about a  
5 police "report of assault and battery" she filed with the  
6 Millbrae Police Department in February of 1997. The complaint  
7 recited periodic physical abuse of Tamara by her boyfriend Scott  
8 W. during the course of their year and a half relationship. Late  
9 in 1995, W. became "mildly abusive" with Tamara. In March of  
10 1996, according to the report, W. pushed her down and punched her  
11 after she said she was "leaving" him. Tamara also reported  
12 additional incidents of physical violence by W. directed at her  
13 that occurred in November and December of 1996, including  
14 throwing her against a wall, pulling her hair, slapping her face,  
15 shaking her neck, and bruising and biting her arms. In January of  
16 1997, W. slashed the tire of her friend's car. None of the  
17 incidents reported by Tamara involved sexual assault, attempted  
18 suffocation, or weapons.

19 Tamara was interviewed by a police officer, but W. was never  
20 charged for any criminal offenses described in the report due to  
21 "late reporting" and lack of corroborating witnesses. Tamara was  
22 urged to obtain a restraining order.

23 **The Prior Sexual Assault of Kimberly**

24 Kimberly testified that she met defendant while she was at  
25 the Limelight Club in Manhattan with two friends on the night of  
26 April 17, 1996. After a couple of hours at the Limelight Club,  
27 Kimberly, her two friends and defendant left in Kimberly's car.  
28 Defendant did not express any romantic or sexual interest in

1 Kimberly. She dropped off her two friends on the way to her home  
2 in Rockaway. Defendant then lamented that he was alone in New  
3 York City and had no place to stay. Kimberly "felt bad" for  
4 defendant and agreed to let him sleep on a couch in the living  
5 room. Kimberly retired to her bedroom to sleep, and closed the  
6 door.

7 While Kimberly was "half asleep" defendant appeared in her  
8 bedroom and said he was "going to rape" and kill her. Defendant  
9 "looked evil." Kimberly was "scared," but decided to "fight  
10 back." Defendant pinned her on the bed, and began to strangle her  
11 with his hands around her neck. He tried to force his penis into  
12 her mouth, but she resisted. Defendant then flipped Kimberly onto  
13 her stomach and wrapped a belt around her neck until she passed  
14 out. Kimberly thought she "was going to die." When she awoke she  
15 was naked on her stomach, with defendant on her back. She tried  
16 to escape, but defendant pulled her back onto the bed and again  
17 began to strangle her with his hands. Kimberly struggled free and  
18 ran into the living room. Defendant followed her into the living  
19 room and apologized. He said he thought she "would like it like  
20 that." Kimberly told defendant to leave. When he asked her to  
21 return to the bedroom with him, she grabbed a dress from the sofa  
22 and ran out of the house to her neighbor's residence, where she  
23 called the police. Defendant was charged with the offenses  
24 committed against Kimberly, but found not guilty after trial.

25 **The Prior Sexual Assault of C.**

26 C. was married to defendant for approximately one year  
27 beginning in 1996. In 1997, they lived in San Mateo with Charles  
28 Renfroe and defendant's two children. In October of 1997, their

1 relationship ended and C. moved out of the residence to a house  
2 she shared with friends. C. told defendant that she "wanted a  
3 divorce." Defendant "wanted to try to work it out," and was very  
4 upset.

5 C. visited defendant's house at his request one night in  
6 December of 1997. No one else was there. Defendant stated that  
7 "he needed to talk" with her. He was "obviously intoxicated," and  
8 told C. that he still wanted to reconcile. She said "no." C.  
9 followed defendant from the living room into the bedroom as they  
10 continued their conversation. They "hugged" and "kissed" at  
11 defendant's instigation, but C. felt "a bit uncomfortable" and  
12 "started to push away" from him. Defendant closed the bedroom  
13 door and told C., "you're not going anywhere." Defendant began  
14 kissing C. "more aggressively" and thrust his pelvis against her  
15 as she continued to push against his chest. C. said "stop, Trent,  
16 what are you doing. I don't want to do this."

17 After a "couple minutes" of "groping," defendant exclaimed,  
18 "I'm horny and I want to fuck you." C. reiterated that she did  
19 not "want to do this," where upon defendant became "very angry."  
20 He unbuttoned her pants and pushed her hard to the ground.  
21 Defendant continued to remove C.'s clothes despite her pleas to  
22 stop. With C. on her back, defendant pushed down on her shoulder  
23 with one hand, and with the other squeezed her throat until she  
24 had difficulty breathing. Defendant forcibly "inserted his penis"  
25 and engaged in sex with C., then he turned her over on her  
26 stomach, held her by the back of the neck, and "began to have sex  
27 with [her] again." C. continued to plead with defendant to stop,  
28 but he did not respond. Defendant abruptly "stopped what he was



1 doing and rolled over onto his back." C. "got up immediately and  
2 pulled [her] pants back on." She told defendant he was "really  
3 sick" and needed help, then left the house without interference  
4 from defendant.

5 C. testified that she did not report the incident to the  
6 police because she "was embarrassed" and "didn't understand what  
7 had just happened." She also thought the police would not believe  
8 an accusation that her husband raped her. After C. learned that  
9 defendant was accused of the sexual assault of Tamara in December  
10 of 1997, during questioning by the police she still did not  
11 reveal his assault of her. Instead, she stated that defendant was  
12 never physically violent with her. She "still loved" defendant  
13 and "wanted to protect him." She also feared retaliation from  
14 him. C. disclosed the assault to friends in 1998, but did not  
15 testify against defendant in his first trial. She told the  
16 district attorney's office for the first time during the  
17 interview on August 24, 2005, that defendant had raped her. C.  
18 testified that she finally disclosed the rape because she "needed  
19 to tell the truth," and "couldn't lie anymore."<sup>3</sup>

#### 20 The Defense Case

21 The defense presented testimony from Tamara's former  
22 boyfriend Scott W. in which he claimed that he never physically  
23 abused Tamara. He denied all of the acts of "assault and battery"  
24 that Tamara reported to the police. W. admitted that he punctured  
25 the tires of a car owned by Tamara's friend after he learned  
26 Tamara "had a relationship" with him.

27 Renfro testified for the defense that he did not hear

28 <sup>3</sup> The prosecution presented expert opinion testimony on rape  
trauma syndrome, particularly to account for the delay in  
disclosure of the incident by C.



1 defendant refer to Tamara as a "hooker" during the struggle. Nor  
2 did he hear defendant say "it's too late" and "I need to finish  
3 this," as Tamara testified. Instead, he heard defendant proclaim  
4 that Tamara took his wallet, and she replied "that's not true."  
5 Renfroe further testified thhat he did not say to defendant, "you  
6 can't keep doing this anymore." He only kept pleading with  
7 defendant "to stop." Renfroe did not see a billy club, plastic  
8 bags or a cord during the struggle in the living room. He also  
9 denied that he opened the front door for tamara to leave; rather,  
10 she did that herself.

ARGUMENT

I

PETITIONER WAS DENIED HIS FEDERAL  
CONSTITUTIONAL RIGHTS TO DUE PROCESS  
AND FAIR TRIAL UNDER THE FOURTEENTH  
AMENDMENT WHEN THE TRIAL COURT ADMITTED  
"PRIOR BAD ACT EVIDENCE."

The prosecution was allowed to present evidence of an uncharged, alleged 1997 sexual assault by petitioner on his then-estranged (now former) wife, Casey Scott, as well as evidence of a claimed sexual assault in New York on Kimberly O'Brien, for which petitioner had been charged, tried, and acquitted. Petitioner argues, the trial court erred in admitting the prior bad acts evidence, as the admission of that evidence unduly prejudiced petitioner exceeding the bounds of reason in an arbitrary manner that resulted in a manifest miscarriage of justice. Petitioner relies on Estelle v McGuire 502 US 62, 116 Led 2d, 385 112 S. ct 475. In which the United States Supreme Court ruled that a finding of guilt based simply on a judgement that the accused had committed the prior bad acts and therefore had a "propensity" to commit that type of crime in conjunction with the current offense rendered the accused's trial arbitrary and fundamentally unfair in violation of the due process clause of the Fourteenth Amendment (emphasis 902 F2d 749). In the instant case, by the trial court allowing the evidence, the jury(in mind) authorized the use of "propensity evidence." By doing so, this may have relieved the prosecution of it's burden as required (fair trial) to prove guilt beyond a reasonable doubt. To reiterate the law, a simple plea of (not guilty) mandates the prosecution to prove all the elements of the crime

1 charged. See Boyd v California 494 US 370, 380, 108 Led 2d 316  
2 110 S. ct 1190. In which a determination of guilt or innocence is  
3 exclusively for a jury, given the necessary evidence legally  
4 sufficient to sustain a conviction unaffected by error (emphasis  
5 added).

6 The prosecution introduced evidence of prior acts to  
7 establish that petitioner has a "propensity" for a certain type  
8 of behavior. The trial court incorrectly admitted the evidence  
9 pursuant to California law. See Hewitt v Helms 459 US 460, 466  
10 [103 S. ct 864 1983] quoting.

11 "while no state may deprive any person  
12 of life, liberty or property, without  
13 due process of law, liberty interest  
14 protected by the Fourteenth Amendment  
may arise from two sources - the due  
process clause itself and the law of  
the states"

15 Petitioner was deprived of his liberty interest "without a  
16 hearing," and the arbitrary deprivation of a purely state law  
17 entitlement violates the federal due process clause applicable  
18 to the states through the Fourteenth Amendment. See Hicks v  
19 Oklahoma 447 US 343 [100 S. ct 2227]. However; the state argues  
20 that the general rule prohibiting evidence of prior acts of  
21 misconduct to prove predisposition or propensity, in 1995 the  
22 legislature enacted section 1108 authorizing in sexual cases the  
23 admission of evidence of the defendant's other sexual offenses.  
24 Quoting " In a criminal action in which the defendant is accused  
25 of a sexual offense, evidence of the defendant's commission of  
26 another sexual offense or offenses is not made inadmissible by  
27 section 1101, if the evidence is not inadmissible pursuant to  
28 section 352 (§ 1108, subd.(a). Relying on People v Walker(2006)

1 139 CalApp 4th 782, 796-797." By removing the restriction on  
2 character evidence in section 1101, section 1108 now permits the  
3 jury in sex offense cases to consider evidence of prior offenses  
4 for any relevant purpose, [subject] only to the prejudicial  
5 effect versus probative value weighing process required by  
6 section 352." People v Britt(2002) 104 Cal. App. 4th 500, 505.

7 The state court's rational fails badly under the supremacy  
8 clause of the United States Constitution which requires Supreme  
9 Court precedent to prevail over a state court's contrary opinion  
10 (US Const, art, vi, cl2; Del Monte v Wilson(1992) 1 Cal 4th 1009,  
11 1023; Cooper v Aaron(1958) 358 US 1, 18.)

12 It is evident that the admission of prejudicial and  
13 irrelevant evidence violated petitioner's Fourteenth Amendment  
14 rights and this court must determine whether the probative value  
15 of the evidence outweighed the prejudice to petitioner. See  
16 United States ex rel Durso v Pate 426 F2d 1083, 1086 (7th cir  
17 1970).

18 The tendency of propensity evidence to 'overpersuade' the  
19 jury is beyond dispute and habeas must issue, when an erroneous  
20 evidentiary ruling "is of such magnitude that the result is a  
21 denial of fundamental fairness." United States ex rel Palmer v De  
22 Robertis 738 F 2d 168, 170 (7th cir 1984) 469 US 924, 105 S. ct  
23 306, 83 Led 2d 241 and "falls outside the bounds of reason." The  
24 evidence improperly admitted referred not to evidence that proves  
25 guilt, but to evidence that prompted an emotional reaction  
26 against petitioner and caused the trier of fact to decide the  
27 case on an improper basis, thus maximizing the risk the jury  
28 would be motivated to punish petitioner for the uncharged

1 offense; and whether the "propensity evidence" of uncharged acts  
2 is stronger or more inflammatory than the evidence of the case in  
3 chief, resulting in the criminal convictions. The question before  
4 this court is whether the state met it's burden of proving  
5 (without error) beyond a reasonable doubt? The state's references  
6 to "propensity evidence" were frequent and such references were  
7 in effect cumulative. The states evidence of guilt was not  
8 overwhelming or especially substantial. That combined with the  
9 egregious trial error that infected the integrity of the  
10 proceedings influencing the jury's verdict. The Supreme Court has  
11 long determined federal habeas corpus relief must be granted to a  
12 state prisoner on the ground of federal constitutional "trial  
13 error" that is, an error that occurred during the presentation of  
14 the case to the jury, and that may be quantitatively assessed in  
15 the context of other evidence presented in order to determine the  
16 effect that the error had on the trial. The appropriate harmless  
17 error standard to apply is whether the error had substantial and  
18 injurious effect or influence in determining the jury's verdict,  
19 [rather] than whether the error was harmless beyond a reasonable  
20 doubt, because the substantial-effect standard is better taylorred  
21 to the nature and purpose of collateral review, and because  
22 application of the less onerous substantial-effect standard ( in  
23 such cases) promotes the consideration underlying the United  
24 States Supreme Court's federal habeas corpus jurisprudence.

25 The state supreme court has upheld the harmless error beyond  
26 a reasonable doubt set forth in Chapman v California 386 US 18,  
27 24 17 Led 2d 705, 87 S. ct 824. However; The federal courts  
28 disagreed, holding that the proper standard of harmless-error

1 review was set forth in Kotteakos v United States 328 US 750,  
2 776, 90 Led 15557, 66 S. ct 1239, i.e., whether the "propensity  
3 evidence" violation "had substantial and injurious effect or  
4 influence in determining the jury's verdict." In this case the  
5 trial court's erroneous application "propensity evidence" was the  
6 kind of clear misapplication of state law that denies petitioner  
7 his federal due process rights. And where, as here, the admission  
8 of prejudicial evidence is sufficiently inflammatory that it  
9 prevents a fair trial, due process again is offended. Petitioner  
10 relying on Estelle v McGuire(1991) 502 US 62, 75 [12 S.ct 465].  
11 The state court's decision was contrary to long standing  
12 constitutional law as determined by the US Supreme court and the  
13 states analysis is an erroneous application of US Supreme court  
14 precedent. See Williams v Taylor, wherefore petitioner's  
15 convictions must be reversed.



## II

PETITIONER WAS DEPRIVED OF HIS SIXTH  
AND FOURTEENTH AMENDMENT RIGHTS TO  
PRESENT A DEFENSE AND DUE PROCESS  
WHEN THE TRIAL COURT PRECLUDED THE  
DEFENSE FROM IMPEACHING DOUKAS

The court erred and abused its discretion in refusing to allow the defense to introduce potentially impeaching evidence about Doukas's "propensity" (propensity evidence) for filing police complaints against domestic partners, roommates, neighbors, and total strangers; more particularly, the court erred in precluding the defense from introducing information about Doukas's other complaints of sexually abusive behavior by a complete stranger. For had the jury heard about all these complaints by Doukas (and not just about her complaint against Walen), the jury would have questioned whether Doukas exaggerated some of her perceived grievances with others, which was a defense theory about what happened in this case (see R.T.6, p. 296, and R.T.13, pp 1671, 1680-81, 1683-84).

Petitioner argues, his ability to impeach Doukas's credibility was hampered by the courts ruling, he was deprived of his Sixth Amendment right to present a full defense and of his Fifth Amendment right, applicable to the state through the Fourteenth Amendment, to due process, resulting in which the United States Supreme Courts have characterized as "trial error." See Kotteakos v United States 328 US 750, 776, 90 Led 1557, 66 S. ct1239 (1946) emphasis added. Quoting "such error occurs during the presentation of the case to the jury, and is amenable to harmless error analysis because it may be quantitatively assessed in context of the other evidence to determine its effects on the

1 trial." see Arizona v Fulminante, 499 US 279, 307, 113 Led 2d  
2 302, 111 S. ct 1246. In keeping with convictions that violate  
3 fundamental fairness, the court must afford relief to those  
4 persons whom the state has grievously wronged in light of modern  
5 justice and to guard against extreme malfunctions in the state  
6 criminal justice systems. (Quoting Fay v Noia supra at 440-441 9  
7 Led 2d 837 83 S.ct 822).

8 Under the due process clause any relevant evidence offered  
9 must be admitted in a criminal proceeding. Evidence of matters  
10 which have "any tendency in reason" to prove or disprove the  
11 truthfulness of a witness's testimony are fully admissable.

12 Thus, under the confrontation clause of the Sixth Amendment to  
13 the United States constitution secures a defendant's right to  
14 cross-examine prosecution witnesses. See Davis v Alaska(1974) 415  
15 US 308, 316 [94 S.ct 1105]. Although the confrontation clause  
16 does not guarantee unbounded scope in cross-examination, it does  
17 guarantee an "opportunity" for effective cross examination. See  
18 Delaware v Van Ardall(1986) 475 US 673, 679 [106 S.ct 1431]  
19 emphasis added, Central to the confrontation clause is the right  
20 of a defendant to cross-examine a witness's credibility. Davis v  
21 Alaska supra 415 US at 316. The United States Supreme court has  
22 found a trial court's refusal to permit a defendant to inquire  
23 into and rely on similar matters to be federal constitutional  
24 error requiring reversal. See Chambers v Mississippi(1973) 410 US  
25 284, 310 [93 S.ct 1038]. The principle federal constitutional  
26 provisions affected by erroneous exclusion of evidence are a  
27 defendant's Sixth Amendment right to present a defense (Ake v  
28 Oklahoma(1985) 470 US 68, 74 [105 S.ct 1087]), and his Fifth

1 Amendment right to due process, both of which are applicable to  
2 the states through the Fourteenth Amendment. (Ibid; Washington v  
3 Texas(1967) 388 US 14, 19 [87 S.ct 1920]. As a result, the court  
4 erred under federal constitutional law when it excluded from  
5 trial evidence about other police reports, particularly as the  
6 underlying claim in one report was that three complete strangers  
7 assaulted her, when she was alone at night, and that they  
8 committed acts suggestive of sexual assault.

9 In Retrospect

10 Petitioner argues this case involves fundamental defects and  
11 omissions inconsistent with the rudimentary demands of fair  
12 procedure. Of particular importance, are the long standing  
13 commitment to fairness as represented by a "scale" or "scales of  
14 justice." Which is a weighing instrument or system. In a court of  
15 law the evidence presented tilts the scales regardless of the  
16 inherent prejudicial quality of the evidence itself. The trial  
17 court allowed "propensity evidence" for the state then exceeded  
18 the bounds of reason by rejecting the counterbalance of  
19 "propensity evidence" for the defense. Thus slanting the scales  
20 and relieving the state of its burden as required. In truth  
21 federal constitutional error has occurred, and "the burden"  
22 shifts to the state to prove beyond a reasonable doubt that the  
23 errors did not contribute to the verdict obtained. (Chapman v  
24 California(1967) 386 US 18, 24 [87 S.ct 824]. Proper application  
25 of the Chapman standard requires a finding that the error in this  
26 case in no way contributed to the verdict, a burden the state  
27 will be unable to sustain.

28 For the ruling in this case did not further the truth-seeking

1 function of petitioner's trial, the importance of which  
2 repeatedly has been exhorted by the United States Supreme court.  
3 See, eg. James v Illinois(1990) 493 US 307 [110 S.ct 648].

4 Wherefore petitioner prays for reversal of petitioner's seven  
5 counts of conviction.

10 III

11 PETITIONER WAS DENIED HIS SIXTH  
12 AMENDMENT RIGHT TO JURY TRIAL  
AT TIME OF SENTENCING

13 Lastly

14 Not withstanding the principles of stare decisis and the  
15 United States Supreme Court's decisions in Cunningham v  
16 California(2007) \_\_\_\_\_ US \_\_\_\_\_ [127 S.ct 856] and Blakely v  
17 Washington(2004) 542 US 296 [124 S.ct 2531], [is] it a violation  
18 of petitioner's Sixth Amendment right to a jury trial for a court  
19 at the time of sentencing to aggravate a  
20 presumptively-appropriate middle term of imprisonment to an  
21 upper-term, based on its own findings that petitioner, served a  
22 prior prison term, was on parole at the time of these offenses,  
23 and had adult convictions of " increasing seriousness", and that  
24 the facts of this case disclose "violent conduct" and that  
25 petitioner is a "danger to society", when the jury was not asked  
26 to, nor did it, make any such factual findings?

27 Issue

28 Petitioner recognizes the recent decisions in Black and

1 Snadoval established that (at this time), in California, the  
2 right to a jury trial does not apply to the aggravating factor of  
3 "numerous" or "increasingly serious" prior convictions, and that  
4 there is no Sixth Amendment violation so long as the sentencing  
5 court relied on at least one "valid" aggravating factor, such as  
6 this "prior conviction" exception.

7 But the United States Supreme court itself has cautioned that  
8 the "fact of a prior conviction" exception should be read  
9 narrowly. (Citing) Shepard v United states(2005) 544 US 13 [125  
10 S.ct 1254].) Therefore, for purposes of federal review (in the  
11 event petitions for certiorari are filed and granted in either  
12 Black or Sandoval.) There is a clear conflict between the state  
13 supreme court and pronouncements of the United States Supreme  
14 court on the constitutionality of sentencing proceedings. In  
15 Cunningham itself, the high court declined to draw a distinction  
16 between offense-related aggravating circumstances and  
17 Offender-related ones. Cunningham vCalifornia supra \_\_\_\_\_ US  
18 127 S.ct 856, 869 at fn.14.

#### 19 20 CONCLUSION

21 Petitioner has developed his claims in state court and has  
22 proved the state court's decision was "contrary" to and involved  
23 "unreasonable application" of, clearly established federal law,  
24 as determined by the supreme court of the United States. See  
25 Williams v Taylor(2000) 529 US 420 146 Led 2d 435, 120 S.ct 1479.  
26 For the foregoing reasons petitioner, (Trent Davis), respectfully  
27 requests this court grant federal habeas corpus relief of the  
28 issues set forth and make a decision on the merits after a full

1 DE Novo review based on the instant arguments.  
2  
3

4 \_\_\_\_\_  
Date  
5  
6  
7

8 Respectfully Submitted  
9  
10

11 \_\_\_\_\_  
Trent Davis  
Mule Creek State Prison  
12 P.O. Box 409060-9000  
Ione, CA 95640-9000  
13 Petitioner Pro-Se  
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28



UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

Trent Davis

Plaintiff or Petitioner

v.

Case Number:

Mike Martel, Warden

Defendant or Respondent

\_\_\_\_\_ /

I hereby certify that on \_\_\_\_\_, 20\_\_ , I served a copy  
of the attached Petition for writ of habeas corpus under 28 USC §2254  
by placing a copy in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope  
in the United States Mail at Mule Creek State Prison

(List Name and Address of Each  
Defendant or Attorney Served)

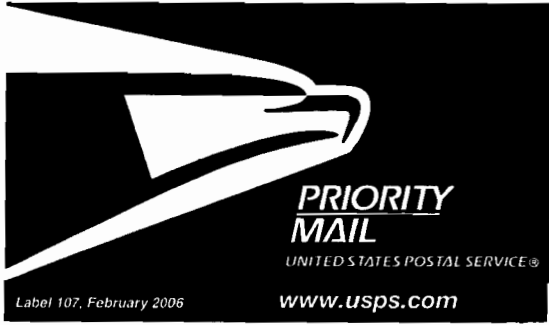
Clerk for the United States District Court  
for the Northern District of California  
450 Golden Gate Avenue, Box 39090  
San Francisco, CA 94102

I declare under penalty of perjury that the foregoing is true and correct.

\_\_\_\_\_  
(Name of Person Completing Service)



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